

**TESTIMONY
SB 369**

**Before the House Federal Relations, Energy and Telecommunications
Committee
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**By Doug Hardy
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You have heard about FCC formulas and the resulting attachment charges being different for a cable company than a telecommunications company.

A brief explanation of the difference in FCC formulas is that the telecommunications formula arrives at a prorated cost of the portion of the pole that is used. This would be from the ground up to the attachment point which is likely over 15 feet in the air. The cable only rate recovers costs for the point of attachment, a mere one foot of the pole. The cable company does not have to share costs for the portion of the pole that actually keeps the cable up in the air. I will not go into further detail on the complicated formula itself unless there are questions.

There has been agreement reached during a meeting of interested legislators and a representative of Bresnan and the cooperatives. It is my understanding this agreement has been accepted by both Flathead and Bresnan. As Mr. Sugden stated, the phase-in of the telecommunications rate charged to Bresnan is part of the agreement. Extension of the effective date of this bill is another component of the agreement. A third component is monitoring by the Legislature's Energy and Telecommunications Interim Committee hearing the implementation of the agreement. This is to ensure that there is not legislation in 2009 to extend the effective date further unless there is abuse related to this section of law. I think it is fair to say nobody wants this legislation back here.

In summary SB 369 comes before you as a result of the 2001 amendment to cooperative enabling statute which effectively prohibited the cooperative from changing pole attachment fees with

the changing industry. SB 369 removes the 2001 amendment. Even with agreement between Flathead and Bresnan this legislation is essential to clean up our enabling legislation. SB 369 will allow Flathead or any cooperative that may purchase any poles and wires from an investor owned utility to charge any cable company using the cable attachments to provide telecommunications the same fee that is charged other telecommunications providers. Please support SB 369 with amendment of the effective date.